

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JUAN F. ALVARADO,

Petitioner,

v.

DANIEL PARAMO, Warden,

Respondent.

Civil No. 15cv1961-GPC (WVG)

**ORDER GRANTING MOTION TO
PROCEED IN FORMA PAUPERIS AND
EXTENDING DEADLINE TO FILE
FIRST AMENDED PETITION**

On September 2, 2015, Petitioner, a state prisoner proceeding pro se, filed a Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2254, together with a request to proceed in forma pauperis. On September 11, 2015, the Court denied the motion to proceed in forma pauperis without prejudice because it was not accompanied by the required prison trust account certificate. (ECF No. 3.) The Court dismissed this action for failure to satisfy the filing fee requirement, and because Petitioner had failed to state a cognizable federal claim and allege exhaustion of state court remedies. (Id.) Petitioner was instructed that if he wished to proceed with this action he was required to satisfy the filing fee requirement and file a First Amended Petition on or before November 5, 2015. (Id.) He was also instructed that if he failed to meet that deadline and still wished to proceed with his claims, he would be required to a new federal petition which would be given a new civil case number. (Id.)

On December 7, 2015, Petitioner submitted a copy of his prisoner trust account statement in an attempt to cure the defect of his original in forma pauperis motion. (ECF No. 5.) He states

1 that the prison officials have lost his case documents, and asks for an update on his case status.
2 (Id. at 4.) The Court will construe Petitioner's submission as a renewed Motion to proceed in
3 forma pauperis and as a request to extend the deadline to file an amended petition.

4 **MOTION TO PROCEED IN FORMA PAUPERIS**

5 Petitioner has no funds on account at the California correctional institution in which he
6 is presently confined and cannot afford the \$5.00 filing fee. Thus, the Court **GRANTS**
7 Petitioner's application to proceed in forma pauperis, and allows Petitioner to prosecute the
8 above-referenced action as a poor person without being required to prepay fees or costs and
9 without being required to post security.

10 **REQUEST FOR EXTENSION OF TIME**

11 The Court extends the deadline for Petitioner to file a First Amended Petition until
12 January 11, 2016. Petitioner is once again notified that if he does not file an amended petition
13 which alleges exhaustion of state court remedies as to the claims presented on or before January
14 11, 2016, and he wishes to proceed with his claims in this Court, he will be required to file a new
15 petition which will be given a new civil case number.

16 **CONCLUSION AND ORDER**

17 The Motion to proceed in forma pauperis is **GRANTED** and the deadline to file a First
18 Amended Petition is extended to January 11, 2016. The Clerk of Court shall send Petitioner a
19 copy of this Court's September 11, 2015 Order of dismissal, which identifies the deficiencies
20 of pleading in his original Petition, and a blank Southern District of California amended petition
21 form, along with a copy of this Order.

22 **IT IS SO ORDERED.**

23
24 DATED: December 8, 2015

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HON. GONZALO P. CURIEL
United States District Judge

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28 Copies to: ALL PARTIES